

Applicants: M.B. Chancellor et al.  
U.S. Serial No.: 10/081,835  
Filing Date: February 22, 2002

Docket No.: PIT-011 (286372-134)

**REMARKS:**

In this Amendment and Response, claims 46-63 have been added as new dependent claims. Support for the subject matter of new claims 46-63 is found in the specification as filed, and in original claims 2-9 and 11-20. Accordingly, no new matter has been introduced by virtue of this amendment.

In the Communication, the Examiner has indicated that the instant application contains three distinct inventions and that restriction is required under 35 U.S.C. §121. Specifically, the claims have been restricted by the Examiner as follows:

Group I: Claims 1-20 and 37, drawn to a method of preparing a stem cell-biomatrix. Classified in class 435, subclass 174.

Group II: Claims 21, 22 and 38-45, drawn to a composition comprising stem cells and a physiologically acceptable matrix material. Classified in class 435, subclass 174.

Group III: Claims 23-37, drawn to a method of preparing a stem cell-biomatrix. Classified in class 435, subclass 174.

Applicants traverse the restriction requirement and respectfully request reconsideration and withdrawal or modification of the requirement. However, in order to provide a complete response pursuant to 37 C.F.R. §1.143, Applicants provisionally elect claims 21, 22 and 38-45 of Group II, drawn to a composition comprising stem cells and a physiologically acceptable matrix material, classified in Class 435, Subclass 174.

It is respectfully submitted that, at the least, the claims of Group II and Group I, which are related as being a composition (Group II) and the process of making a component of the composition, namely, the stem cell matrix which is prepared according

to the method of claim 1 (of Group I), should be examined together, as they form a general inventive concept and are classified and subclassified identically.

Applicants respectfully submit that the examination of Groups II and I, which share a relationship involving a corresponding feature of being a composition comprising a stem cell matrix material prepared by the process of claim 1 of Group I, would not present an unreasonable task for, or place an undue burden on, the Examiner for searching purposes when the same class and subclasses are being searched. Thus, the claims of Group II and Group I can and should be considered together in one application. The process of making the stem cell matrix material comprising the composition of claim 21 of Group II is, in particular, the method of claim 1. Accordingly, at the least, the claims of Groups II and I should be rejoined and examined together in view of their sharing a common technical feature.

In addition, for Groups I-III, the Examiner has further required election of a species of stem cell and biomatrix material for the stem cell-biomatrix material combination. To provide a complete response to this species election requirement, Applicants elect, with traverse, muscle stem cells as the species of stem cell and small intestine submucosa (SIS) as the species of biomatrix material. Applicants respectfully contend, however, that in searching the art, an undue burden would not be placed on the Examiner to include all of the recited stem cells and biomatrix materials in the search, as the types of stem cells and biomatrix materials are not so vast as to require an inordinate amount of the Examiner's time to conduct the search, which involves the same art classifications and subclassifications.

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**CONCLUSION:**

Should any additional fee(s) be deemed to be properly assessable in this application during its pendency, or for the timely consideration of this Amendment and Response, the Commissioner is hereby authorized to charge any such additional fee(s), or to credit any overpayment, to Deposit Account No. 08-0219, Order No. 286372-134.

If the Examiner believes that further discussion is necessary, the Examiner is respectfully requested to telephone the Applicants' undersigned representative at (212) 937-7315, and efforts to resolve any outstanding issues will be made.

Respectfully submitted,  
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